

REMARKS

35 U.S.C. §102 Rejections

Claims 1-4, 9-15, and 18 are rejected under 35 U.S.C. §102(e) as being anticipated by Patent Publication 2003/0182414 A1 to O'Neil. Applicants have reviewed the O'Neil reference and, for the following rationale, Applicants respectfully submit that the present invention is not anticipated nor rendered obvious by the O'Neil reference.

With respect to Claim 1, the present Office Action alleges that the O'Neil reference teaches monitoring for an indication of available update information. Applicant respectfully asserts the O'Neil reference does not teach remote monitoring for an indication of available update information as claimed in the present application. For example, Claim 1 recites:

monitoring for an indication of available update information remotely,
wherein said update information is boot information . . .

To the extent the O'Neil reference may mention a collector in an update server array can communicate with clients to determine which clients require updating and if any updates are available, Applicants respectfully assert the O'Neil reference does not teach remote monitoring. In addition, Applicants respectfully assert the O'Neil reference teaches away from the present invention by indicating the collector in an update server array is centrally located [Fig 1C]. The present Office Action acknowledges the O'Neil reference does not teach update information is boot information.

Applicants respectfully assert Claims 2 through 11 are allowable as depending from allowable independent Claim 1.

With respect to Claim 12, the present Office Action alleges the O'Neil reference teaches retrieving update information. To the extent the O'Neil reference may mention receiving and update [Fig 2], Applicants respectfully assert and the present Office Action acknowledges the O'Neil reference does not teach the update information is boot information.

Applicants respectfully assert claims 13 through 19 are allowable as depending from an allowable independent Claim 12.

103 Rejections

The present Office Action indicates Claims 5-8, 16, 17 and 19-23 are rejected under 35 U.S.C. 103 (a) as being unpatentable over U.S. Patent Publication 2003/0182414 A1 to O'Neil in view of U.S. Patent 6,009,524 to Olarig et al., hereafter referred to as Olarig. Applicants respectfully assert that the present invention is neither taught nor suggested by the O'Neil and/or Olarig references, alone or together in combination.

The present Office Action acknowledges the O'Neil reference does not teach the updated information is boot information. Applicants respectfully assert the Olarig reference does not overcome these and other shortcomings of the O'Neil reference. The present Office Action alleges the Olarig reference teaches the ability to update boot

information was well known. To the extent the Olarig reference may mention a means for the user to reprogram the BIOS [Col. 1 lines 17 to 33], Applicants respectfully assert the Olarig reference does not teach performing or engaging in an update setup process automatically. In addition, the Olarig reference teaches an Admin verifies and authorized the code [Col. 3 lines 40 –50].

Furthermore, Applicants respectfully assert the Olarig reference teaches away from the present invention by indicating if new software causes an error, it toggles back [Col.4 lines 30 – 35]. It is impermissible to disregard portions of a prior art reference that teach away from an invention. Hughes Aircraft Co. v. United States, 15 Cl. Ct. 267, 275, 8 USPQ2d 1580, 1583 (Cl. Ct. 1988). Applicants respectfully assert one of ordinary skill in the art at the time of the resent application would not find a motivation or suggestion to combine the teaching away system of the Olarig et al. reference with the O'Neil reference to teach the present claimed invention.

Applicants respectfully assert Claims 20 – 23 are allowable as depending from allowable independent Claim 19.

Conclusion

In light of the above-listed amendments and remarks, Applicants respectfully request allowance of the remaining Claims. The examiner is urged to contact Applicant's undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

WAGNER, MURABITO & HAO

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John F. Ryan
Reg. No. 47, 050
Two North Market Street
Third Floor
San Jose, CA 95113
(408) 938-9060